REMARKS

Claims 1-42 are pending in this application. All claims have been rejected as unpatentable (35 USC 103(a)) over the combination of US Patent No. 6,453,472 issued to Leano et al. and US Patent No. 6,212,399 issued to Kumar et al. The rejections of some claims also include one or more points of "Official Notice" by the Office. Further, at times, the Actions refer to certain claim features as "common knowledge."

All remarks presented in Applicants two preceding responses are incorporated herein. Applicants stand by the position previously presented and believe that those positions are persuasive. Applicants present the above amendments in a good faith attempt to advance prosecution before the Examiner during a second round and, if necessary, put the claims in a good posture for appeal.

The amendments focus the claims on a cable network ranging protocol (to further distance the claimed subject matter from Kumar's frame of reference while acknowledging the relevance of Leano). The amendments also emphasize the locus of the claimed features at the head-end of a cable network. As pointed out in previous responses, Kumar's control signals are analyzed by wireless terminal 502 (more closely analogous to Applicants' cable modems) while Leano analyzes power measurements at the head-end (opposite end of the network from where the Kumar system would be analyzing its control signals). Applicants respectfully submit that one of skill in the art familiar with Leano's centralized detection and adjustment system would not be motivated to turn to a decentralized adjustment system as implemented in the individual nodes of the Kumar cellular system.

Applicants seasonably traverse all points of Official Notice from PTO. Consistent with cases and precedent from Board of Patent Appeals and Interferences, traverse has been made seasonably and Applicants refuse to admit that any of the inventive aspects claimed are sufficiently well known in the context of the inventive technology that Official Notice, Judicial Notice, or any other shorthand substitute for clear prior art evidence from outside the USPTO is appropriate. This applies to positions taken in the prior Office Actions with respect to at least claims 1, 8, 9, 11, 20, 21, 24, 25, 26, 27, 30, 31, and 32. Applicants make no admission of prior art with respect to any Official Notice unilaterally made the Office.

To allow claimed features to become admitted prior art merely because the Examiner states that they are well known would vitiate the requirement that the PTO make a *prima facie* case of unpatentability for each claim. This is particularly true with respect to any position that detecting the need for a frequency adjustment or calculating a frequency adjustment can be made on the basis of a plurality of frequency adjustments.

Note that in their prior responses, Applicants strenuously argued the patentability of claims 24 et seq. which require "calculating a frequency adjustment using a plurality of recent frequency measurements of signals from the cable modem taken at or proximate the head-end for the cable network."

Whether or not the instances of Official Notice properly substitute for prior art, Applicants respectfully submit that all pending claims are patentable.

Applicants believe that all pending claims are in condition for allowance, and respectfully request a Notice of Allowance at an early date. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 510-843-6200.

Respectfully submitted,
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